

# Reconfiguring Liberty

Big data, the Investigatory Powers Act 2016 and  
the concept of liberty in the UK's security state



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***There is no political power without control of the archive, if not memory. Effective democratisation can always be measured by this essential criterion: the participation in and the access to the archive, its constitution, and its interpretation.***

Derrida, 'Archive Fever: A Freudian Impression' (1995) *diacritics* 25.2: 9-63, fn 2




# **dataveillance and datafication undermines liberty by handing significant power to government archons**

Big data surveillance and the digital surveillance archons

# **Negative (absence of constraint) & Positive liberty (self-mastery over irrational desires)?**

## **Liberty as autonomy (Raz + Nedelsky):**

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- 1. promotion and protection of positive freedom: capacity for autonomy and range of adequate life options available**
  - 2. state duty to prevent denial of freedom and create conditions for autonomy**
  - 3. cannot pursue goals which infringe others' autonomy unless it promotes/ protects social context and structural relations**

**Liberty as autonomy:** the core of a capacity to engage in the ongoing, interactive creation of our selves- our relational selves, ourselves that are constituted, yet not determined, by the web of nested relations within which we live. (Nedelsky, Laws relations: A Relational theory of Self, Autonomy and law, p 45)





- **regulates surveillance and investigatory powers**
- **rooted in big data focuses on collection and interpretation of metadata (except Part 2)**
- **Amends RIPA 2000 & replaces DRIPA 2014 (which had a sunset of Dec 2016 and was temporary following *Digital Rights Ireland*)**
- **DRIPA contested by *Tele2 Sverige/ Watson***

## The Investigatory Powers Act 2016 Overview



- Secures and extends powers to:
  - intercept communications, retain and request retention of comms data, equipment interference (government hacking), and bulk and 'thematic' data acquisition
- Claims to improve oversight with 'double lock' for warrants but not all warrants require judicial approval and urgent warrants can receive retrospective approval
- Is generally, though not exclusively, concerned with power used for national security, serious crime, and economic well-being of UK

## IPA 2016



**dataveillance and datafication is a truly significant power that affects not only privacy but also undermines liberty by handing significant power to government archons**

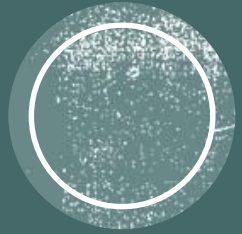
Argument 1



**Value complacency  
devalues liberty and sees  
it erroneously as  
secondary to security**

Argument 2





# **Consequential complacency about the predictive proficiency of big data surveillance**

Argument 3



- **Digital life seen as distinct from physical life**
- **Discussion on surveillance powers takes place in dehumanised and dematerial terms**



**Thank you!**

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